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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,185	12/15/2003	Isaac L. Dienner	23488.00	2175

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EXAMINER
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LAUX, JESSICA L

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 06/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/734,185	<b>Applicant(s)</b> DIENNER ET AL.	
	<b>Examiner</b> Jessica Laux	<b>Art Unit</b> 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) 5 and 9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-8 is/are rejected.
- 7) ☒ Claim(s) 1 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election with traverse of Species II and IV in the reply filed on May 19, 2006 is acknowledged. The traversal is on the ground(s) that applicant should be entitled to examination of a number of embodiments and that it is not a burden on the examiner to search several embodiments. This is not found persuasive because it is determined that the different embodiments of the invention are patentably distinct and would require searching in different subclasses therefore creating a burden for the examiner.

The requirement is still deemed proper and is therefore made FINAL.

Claims 5 and 9 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on May 19, 2006.

***Claim Objections***

Claim 1 is objected to because of the following informalities: line 9 recites, "drywall are fastened". Examiner suggests deleting "are" as it does not make sense in the context of the surrounding words (ie. "having first and second abutting sheets of drywall are fastened"). Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Klammer (6108990).

In regards to claim 1: Klammer discloses a seamsaver for drywall, comprising: (a) an elongate rectangular panel of wood having a front face and first and second opposing side edges (element 10, Figure 2; claim 1); (b) an elongate first ridge attached to the front face of the rectangular panel (element 12; claim 1), the ridge being vertically centered on the rectangular panel and aligned along the first side edge of the rectangular panel (claim 1); whereby the rectangular panel is adapted for having first and second abutting sheets of drywall fastened along a seam formed by the abutting sheets of drywall, the ridge abutting the first sheet of drywall so that the first sheet is bent inward towards the rectangular panel in order to define a recess extending along the seam adapted for coating with joint compound (Figure 2; Col. 2, lines 15-18).

In regards to claim 2: The seamsaver for drywall according to claim 1 above, further comprising a second ridge (14) identical in dimensions to said first ridge, the

second ridge being attached to the front face of said panel, the second ridge being vertically centered and aligned along the second side edge of said panel opposite said first ridge, the second ridge being adapted for abutting the second sheet of drywall, whereby both the first and second sheets of drywall are bent inward towards the rectangular panel in order to define the recess extending along the seam (Figure 2; claim 1; Col. 2, lines 15-18).

In regards to claim 3: The seamsaver for drywall according to claim 1 above, wherein said first ridge is rectangular in cross section (Figure 2).

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 and 4 are rejected under 35 U.S.C. 102(e) as being anticipated by Orozco (20030089077).

In regards to claim 1: A seamsaver for drywall, comprising: (a) an elongate rectangular panel of wood (13) having a front face and first and second opposing side edges; (b) an elongate first ridge (10) attached to the front face of the rectangular panel (as depicted in figure 2, where the front face is shown on the bottom and the ridge is attached at 17), the ridge being vertically centered on the rectangular panel and aligned along the first side edge of the rectangular panel; whereby the rectangular panel is capable of having first and second abutting sheets of drywall fastened along a seam formed by the abutting sheets of drywall where the ridge abuts the first sheet of drywall

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so that the first sheet is bent inward towards the rectangular panel in order to define a recess extending along the seam adapted for coating with joint compound. It is noted that the recitation of having first and second abutting sheets of drywall with the sheets bent inwards and joint compound along the seam is considered a functional use recitation and as such is not given patentable weight in an apparatus claim. Since the panel of Orozco is capable of being used as in claim 1 the claim limitations are met.

In regards to claim 4: The seamsaver for drywall according to claim 1, wherein said first ridge comprises an elongate, substantially U-shaped channel (Figure 1, element 14), having a front flange (the side of element 11) and a rear flange (at 22) joined by a web (14), the front flange being substantially wedge-shaped (at elements 11 and 12), the channel being closely disposed over the first side edge of said panel with the front flange attached to the front face (Figure 2).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klammer (6180990).

In regards to claims 6-8: Klammer teaches a seamsaver for drywall according to claim 1 above, but does not address the dimensions of the seamsaver rectangular

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panel and ridge. However, is used at joints of drywall seams. Applicant has not disclosed that having the rectangular panel about forty-eight inches in length and between about four and ten inches in width, the first ridge between about twenty-eight and thirty-four inches in length and between about one-sixteenth and one-eighth inches thick solves any stated problem or is for any particular purpose. Moreover, it appears that the seamsaver of Klammer, or applicant's invention, would perform equally well with the dimensions suitable for wall framing and drywall installation applications.

Accordingly, it would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made to have modified Klammer such that the dimensions of the seamsaver are the same as is claimed by applicant as such a modification would have been considered a mere design consideration which fails to patentably distinguish over Klammer.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessica Laux whose telephone number is 571-272-8228. The examiner can normally be reached on Monday thru Friday, 8:30am to 4:00pm (est).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on 571-272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



JL

06/06/2006

  
N. Slack  
Primary